

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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|------------|--|-------------------|-----------------|
| In re: | Carozzi et al. | Confirmation No.: | 5854 |
| Appl. No.: | 10/782,096 | Group No.: | 1638 |
| Filed: | February 19, 2004 | Examiner: | Anne R. Kubelik |
| For: | AXMI-009, A DELTA-ENDOTOXIN GENE AND METHODS FOR ITS USE | | |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION UNDER 37 CFR § 1.59(b) TO EXPUNGE INFORMATION
SUBMITTED UNDER M.P.E.P. § 724.02 IN RESPONSE TO REQUEST FOR
INFORMATION
UNDER 37 C.F.R. § 1.105
(M.P.E.P. § 724.05.)**

1. Applicant respectfully requests that the information submitted on November 26, 2008, entitled as Response to Request for Information Under 37 C.F.R. § 1.105, and dealing with the source and public availability of *B. thuringiensis* strain ATX13026 be expunged and returned, since it is considered proprietary material.
2. The above identified information was submitted in response to a Request for Information by the Examiner and the failure to obtain its return would cause irreparable harm to:
☐ the party who submitted the information
☒ the party in interest on whose behalf the information was submitted.
3. The above-identified information has not otherwise been made public.
4. Petitioner commits to retain the above-identified information for the period of any patent with regard to which this information was submitted.
5. Petitioner submits that the above-identified information that is requested to be returned is not material information under 37 CFR § 1.56.

6. The fee required by 37 CFR 1.17(h) is to be paid as follows:
- ☒ Charge the \$200.00 Petition Fee to Deposit Account No. 16-0605.
 - ☒ Charge Deposit Account No. 16-0605 for any deficiencies.

Respectfully submitted,

/destiny m. davenport/

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